

REMARKS/ARGUMENTS

The Final Office Action mailed March 23, 2006 ("Final Office Action"), has been received and reviewed. Claims 1 through 5 and 7 through 20 are currently pending in the application. Claims 1 through 5 and 7 through 20 stand rejected. Applicants have amended claims 1, 7, 11, and 12. Claim 14 has been cancelled without prejudice or disclaimer. New claims 21-23 have been added. Applicants respectfully request reconsideration and allowance of all the pending claims.

Claim Objection Under 37 CFR § 1.75(c)

Claim 14 is objected to under 37 CFR § 1.75(c) as being of improper dependent form for failing to further limit the subject matter of a previous claim.

The Applicants respectfully disagree with the objection but assert that the objection is moot because claim 14 has been cancelled. Thus, the Applicants request that this objection be withdrawn.

Claim Rejection Under 35 USC § 112

Claim 14 is rejected under 35 USC § 112 for being indefinite.

The Applicants respectfully disagree with the rejection but assert that the rejection is moot because claim 14 has been cancelled. Thus, the Applicants request that this rejection be withdrawn.

Claim Rejections Under 35 USC § 102

(a) Claims 1-5, 13 and 15-20

The Examiner rejected claims 1-5, 13 and 15-20 under 35 U.S.C. §102(b) as being anticipated by *Davy* (U.S. Patent No. 4,405,279).

With respect to independent claim 1, the Applicants submit that *Davy* does not disclose the combination set forth in claim 1 including, *inter alia*, the following element: "wherein the

active opener arm is slidably engaged with a portion of the parallelogram linkage.” *Davy* discloses a tailgate loader for a vehicle with a parallelogram linkage connecting a platform to the vehicle. (Col. 1, Ins. 53-58). On page 2 of the Final Office Action, the Examiner alleges that the “connection links 101 and 103” of *Davy* are the “active opener arm” recited in claim 1. *Davy* discloses that the “connecting link 101” is rigidly connected to the “upper arm 22” using the “stub shaft 99”, and the “connecting link 103” is rigidly connected to the “lower arm 24” using the “stub shaft 107a”. (Col. 4, Ins. 11-19). However, nowhere in *Davy* is it disclosed that the “connection link 101” is “slidably engaged” to the “upper arm 22”, or that the “connection link 103” is “slidably engaged” to the “lower arm 24”.

In addition, the Applicants submitted, in an Information Disclosure Statement, documents describing the Thieman Stow-Away Tailgates (“Thieman documents”). With respect to independent claim 1, the Applicants submit that the Thieman documents do not disclose the combination set forth in claim 1 including, *inter alia*, the following elements: (i) “a parallelogram linkage”, and (ii) “wherein the active opener arm is slidably engaged with a portion of the parallelogram linkage.” With respect to (i), the Thieman documents disclose “lift arms”, however, the documents do not describe the presence of both upper arms and lower arms nor that the arms form a parallelogram. With respect to (ii), the Thieman documents disclose an “automatic kickout arm”, however, the documents do not describe that the “automatic kickout arm” is “slidably engaged”.

Accordingly, for the foregoing reasons, the Applicants submit that claim 1 is patentable over *Davy* and the Thieman documents. Claims 2-5, 13, and 15-20 depend from claim 1 and thus are patentable over *Davy* and the Thieman documents for at least the reasons set forth above with respect to claim 1.

(b) Claims 7-12 and 14

The Examiner rejected claims 7-12 and 14 under USC § 102(b) as being anticipated by *McCarty* (U.S. Patent No. 3,138,270).

With respect to independent claim 7, the Applicants submit that *McCarty* does not disclose the combination set forth in claim 7 including, *inter alia*, the following element: “an active opener arm rotatably coupled to the lower arm coupling, the active opener arm slidably engaged with the upper arm coupling.” On page 5 of the Final Office Action, the Examiner

concedes that the “piston rod 29” of *McCarty* (the Examiner alleges that the “piston rod 29” is an “active opener arm”) is connected to “rigid ear 26” and “bracket 12” rather than the “strut 21” (the Examiner alleges that the “strut 21” is an upper arm). Thus, *McCarty* does not disclose that the “piston rod 29” is “slidably engaged” with an “upper arm coupling” on the “strut 21”.

In addition, for reasons similar to those provided earlier with respect to claim 1, the Thieman documents do not disclose “the active opener arm slidably engaged with the upper arm coupling” recited in claim 7.

Accordingly, for the foregoing reasons, the Applicants submit that claim 7 is patentable over *McCarty* and the Thieman documents. Claims 8-10 depend from claim 7 and thus are patentable over *McCarty* and the Thieman documents for at least the reasons set forth above with respect to claim 7.

With respect to independent claim 11, the Applicants submit that *McCarty* does not disclose the combination set forth in claim 11 including, *inter alia*, the following element: “wherein the assisting means is configured to engage the carrying means for movement toward and away from the lowering and raising means.” In *McCarty*, the “piston rod 29” (the Examiner alleges that the “cylinder 27/piston rod 29” is an “assisting means”) is described as being pivotally connected to an “ear 31” on a “trunnion 32” which is rigidly mounted between the “compression arms 14” which connect to the “platform 16” (the Examiner alleges that the “platform 16” is a “carrying means”). The Examiner alleges that FIG. 4 and FIG. 5 of *McCarty* show that “cylinder 27/piston rod 29” is engaged with the “platform 16”. These figures show that the “platform 16” is at rest on the “cylinder 27/piston rod 29”, however, the figures do not disclose that the “cylinder 27/piston rod 29” as engaging “platform 16” for movement toward and away from the lowering and raising means.

In addition, for reasons similar to those provided earlier with respect to claim 1, the Thieman documents do not disclose “the assisting means is slidably engaged with a portion of the lowering and raising means” as recited in claim 11.

Accordingly, for the foregoing reasons, the Applicants submit that claim 11 is patentable over *McCarty* and the Thieman documents.

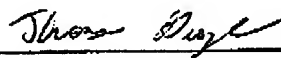
With respect to independent claim 12, for reasons similar to those provided earlier with respect to claim 11, the Applicants submit that *McCarty* does not disclose the combination set forth in claim 12 including, *inter alia*, the following element: “wherein the active opener arm is

configured to engage the platform for movement toward and away from the parallelogram linkage." In addition, for reasons similar to those provided earlier with respect to claim 1, the Thieman documents do not disclose "the active opener arm is slidably engaged with a portion of the parallelogram linkage" as recited in claim 12.

CONCLUSION

On the basis of the above remarks, reconsideration and allowance of all the pending claims is believed to be warranted and such action is respectfully requested. If the Examiner has any questions or comments, the Examiner is respectfully requested to contact the undersigned at the number listed below. The Office is hereby authorized to charge any additional fees or credit any overpayment to Deposit Account No. 50-1847.

Respectfully submitted,



Thomas George
Registration No. 45,740
MANATT, PHELPS & PHILLIPS LLP
1001 Page Mill Road, Building 2
Palo Alto, California 94304
650-812-1327 Telephone
650-213-0286 Facsimile